

Office of Chief Counsel
Internal Revenue Service

memorandum

CC:NER:CTR:HAR:TL-N-2485-00
CJSantaniello

date:

to: Chief, Examination Division, Connecticut-Rhode Island District
Attn: Case Manager [REDACTED], Group [REDACTED]

from: District Counsel, Connecticut-Rhode Island

ject: Large Case Advisory Opinion - [REDACTED]

THIS DOCUMENT INCLUDES CONFIDENTIAL INFORMATION SUBJECT TO THE ATTORNEY-CLIENT AND DELIBERATIVE PROCESS PRIVILEGES AND SHOULD NOT BE DISCLOSED TO ANYONE OUTSIDE THE SERVICE, INCLUDING THE SUBJECT TAXPAYER. THIS DOCUMENT ALSO CONTAINS TAX RETURN INFORMATION SUBJECT TO THE PROVISIONS OF I.R.C. § 6103 AND ITS USE WITHIN THE SERVICE SHOULD BE LIMITED TO THOSE WITH A NEED TO REVIEW IT.

We are responding to your April 12, 2000 verbal request for assistance. [REDACTED], (b)(7)a, (b)(5)(DP)

Issue

Whether an initial Form 872 and subsequent renewals thereof, all of which contain identical language specified in counsel's August 1996 written advice regarding the assessment of partnership items, are valid, [REDACTED], (b)(7)a, (b)(5)(DP)

U.I.L. No. 6229.02-00.

11101

Facts

By memorandum dated August 6, 1996 to Carole Chapman, our office recommended, after coordinating with the National Office, that the following language be added to the standard Form 872 to extend the period of limitations for all partnership items on a corporate return:

Without otherwise limiting the applicability of this agreement, this agreement also extends the period of limitations for assessing any tax (including additions to tax and interest) attributable to any partnership items (see I.R.C. 6231(a)(3)), affected items (see I.R.C. § 6231(a)(5), computational adjustments (see I.R.C. § 6231(a)(6)), and partnership items converted to nonpartnership items (see I.R.C. § 6231(b). This agreement extends the period for filing a petition for adjustment under I.R.C. § 6228(b) but only if a timely request for administrative adjustment is filed under I.R.C. § 6227. For partnership items which have been converted to nonpartnership items, this agreement extends the period for filing a suit for refund or credit under I.R.C. § 6532, but only if a timely claim for refund is filed for such items. In accordance with paragraph 2, above, an assessment attributable to a partnership shall not terminate this agreement for other partnerships or for items not attributable to a partnership. Similarly, an assessment not attributable to a partnership shall not terminate this agreement for items attributable to a partnership [The issuance of a notice of deficiency will not terminate this agreement under paragraphs (1) and/or (2) for the items described by this paragraph.]

Based on this advice, the examination team secured a Form 872 and subsequent renewals containing the above language for the taxable year [REDACTED], extending the assessment period for that year until December 31, [REDACTED]. Forms 872 and renewals thereof for prior years did not contain any language regarding partnership items, as per counsel's August 1996 advice.

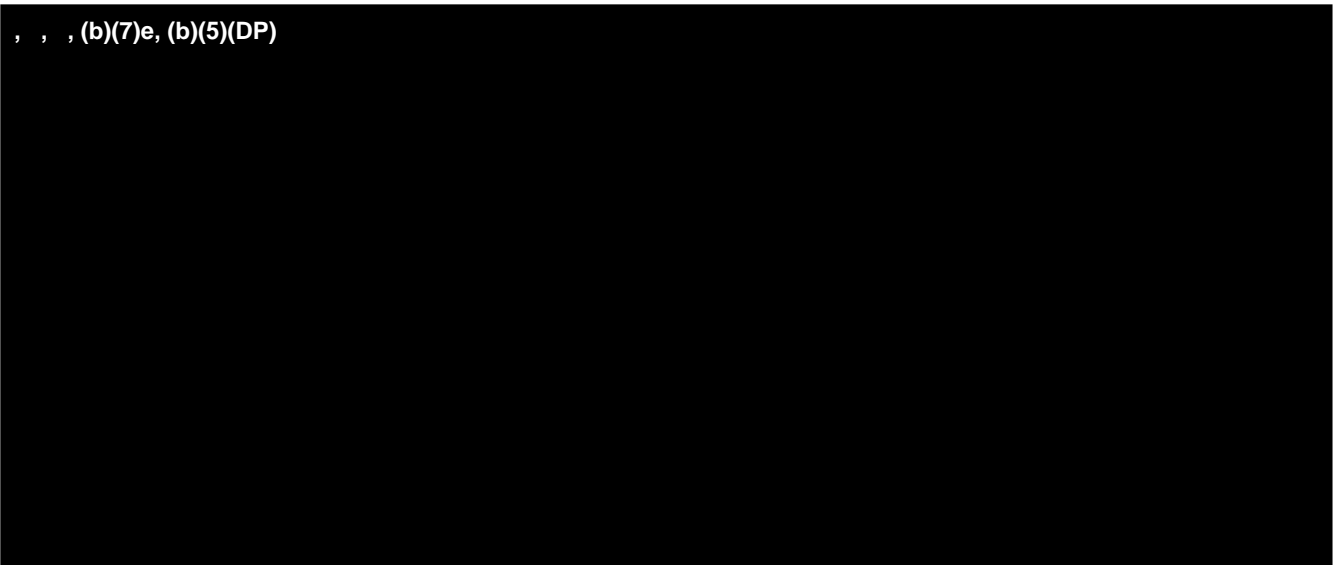
On September 9, 1999, Thomas W. Wilson, Jr., Assistant Commissioner (Examination), issued a memorandum concerning Corporate Consents and Coordinated Examination Program (CEP) Cases, recommending that large case examiners use other approved language when extending the statute on a Form 1120. This language, appearing below, supersedes that set forth in our previous advice dated August 6, 1996:

With regard to interests held in entities that are subject to the TEFRA unified audit and litigation procedures, and without otherwise limiting the applicability of this agreement, this agreement also extends the period of limitations for assessing any tax (including additions to tax and interest) attributable to any partnership items, affected items, computational adjustments, and partnership items converted to nonpartnership items. This agreement extends the period for filing a request for administrative adjustment and the period for filing a petition regarding such a request. For partnership items which have been converted to nonpartnership items, this agreement extends the period for filing a suit for refund or credit. In accordance with paragraph (1), above, an assessment attributable to a partnership shall not terminate this agreement for other partnerships or for items not attributable to a partnership. Similarly, an assessment not attributable to a partnership shall not terminate this agreement for items attributable to a partnership.

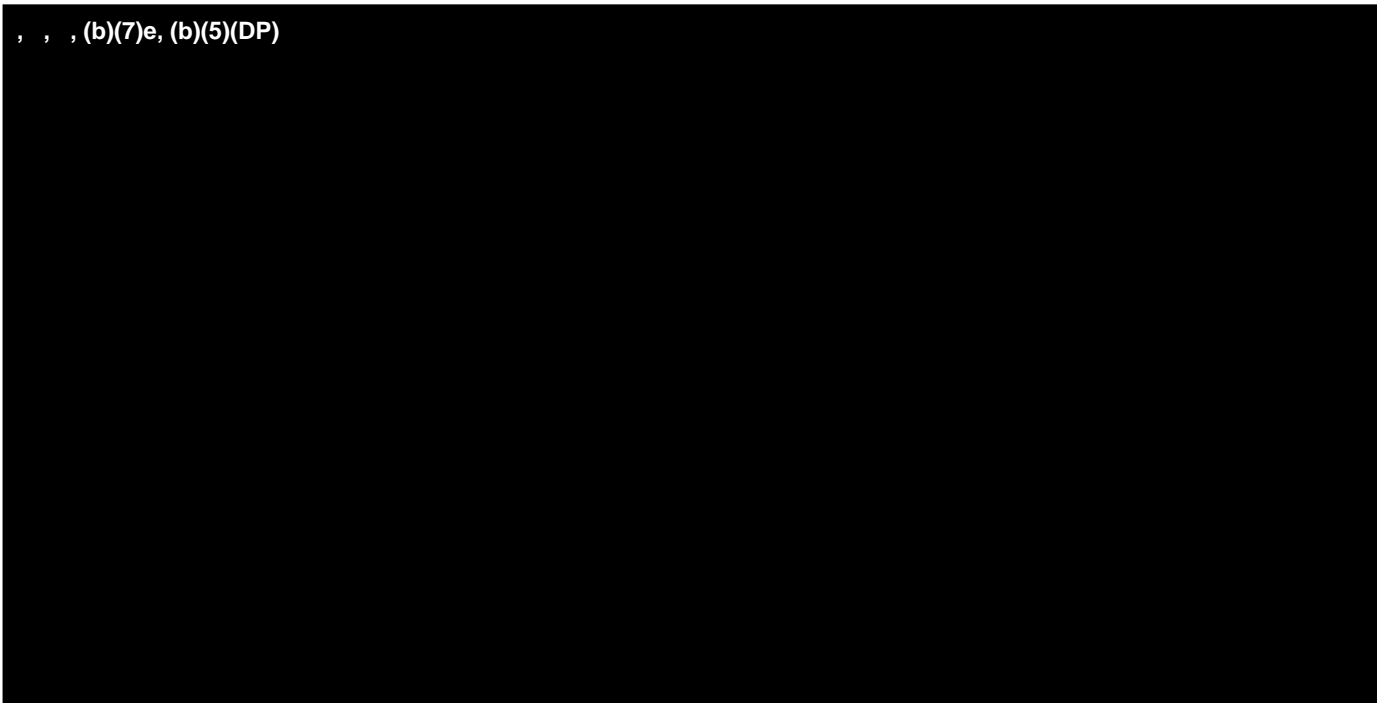
In our memorandum dated October 21, 1999 to the Chief, Examination Division, Connecticut-Rhode Island District, we advised that the above language be used for all initial statute extensions and renewals thereof. Based on this latter advice, the examination team secured Form 872 and renewals thereof for 1996 containing this language, rather than the language appearing on the 1995 statute extensions.

Discussion

, , , (b)(7)e, (b)(5)(DP)



, , , (b)(7)e, (b)(5)(DP)



We are simultaneously submitting this memorandum to the National Office for post-review and any guidance they may deem appropriate. Consequently, you should not take any action based on the advice contained herein during the 10-day review period. We will inform you of any modification or suggestions, and, if necessary, we will send you a supplemental memorandum incorporating any such recommendation.

Since there is no further action required by this office, we are closing our file in this matter. Please call Carmino J. Santaniello at (860) 290-4075 if you have any questions or require further assistance.

BRADFORD A. JOHNSON
Acting District Counsel

By: _____

CARMINO J. SANTANIELLO
Attorney